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C O N F I D E N T I A L SECTION 01 OF 02 YEREVAN 000709

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SUBJECT: ELECTION FRAUD COMPLAINTS PROCEED ON SEVERAL TRACKS

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Classified By: CDA A.F. Godfrey, reasons 1.4 (b,d)

11. (C) SUMMARY: Four opposition parties have filed election complaints with the Constitutional Court, calling for the May 12 elections to be voided. Their contention is that sufficient irregularities occurred to invalidate the election. The Constitutional Court hearing is scheduled to begin June 1. Three majoritarian candidates have separately filed Constitutional Court appeals, though those hearings remain to be scheduled. Prosecutors are also investigating some 14 specific criminal complaints of election fraud. The likelihood of the Constitutional Court voiding the election results is nil. We do expect, however, some prosecutions and convictions for violations in some areas. While these will hopefully serve as a deterrent for future elections, they will not placate some of the opposition, which will undoubtedly declare the parliament illegitimate. END SUMMARY.

CONSTITUTIONAL COURT TO REVIEW THE BIG PICTURE

12. (SBU) Opposition parties Orinats Yerkir (Rule of Law), Republic, New Times, and the Impeachment Bloc have filed Constitutional Court claims to overturn the May 12 election results. Meanwhile, the opposition Heritage Party and People's Party of Armenia each announced they had chosen not to file complaints of their own, but had provided evidence to the other complainant parties for use in the court proceedings. The four complaints were filed separately, but the court has announced it will combine the complaints into a single package for joint hearing and adjudication.

13. (SBU) Republic's Aram Sargsian was publicly downbeat about the court proceedings: "I don,t expect the Constitutional Court to rule in our favor," he said. "Make no mistake about that. This Constitutional Court will never make such a decision." He added "In that court, we will simply prove our righteousness to everyone."

14. (C)) The Chief of Staff of the Constitutional Court Arushan Hakobian told us that, in addition to the complaints filed by the parties on the proportional vote, three majoritarian candidates had also filed claims with the court. Specifically, Heghine Bisharian of Orinats Yerkir (TEC 11), Hovhannes Margarian also of Orinats Yerkir (TEC 33), and independent candidate Mushegh Saghatelyan (TEC 36). The Constitutional Court has not announced a hearing date for these complaints.

PROSECUTORS INVESTIGATE CRIMINAL COMPLAINTS

¶5. (C) On May 22, the office of the Prosecutor General (PG) announced it had completed criminal investigations into four cases of election violations, involving 13 defendants altogether, and had already passed them to the courts for trial. Deputy Prosecutor General Gevorg Danielian told us May 29 that ten additional cases are still under investigation.

¶6. (SBU) The first of the four cases referred for trial regarded falsification of election results in Armavir is with the first-instance (lowest level) court in that city. The Armavir prosecutor found that nine members of the precinct commission in Getashen village intentionally changed elections results, through willful miscounting of ballots. The potential punishment for this crime is from 2 to 5 years in prison.

¶7. (SBU) A second case before the Armavir court is for the charge of hooliganism. The PG's office reports that representatives of two competing majoritarian candidates in TEC 16 clashed in one of the polling places. Allegedly the confrontation escalated to the point they started shooting at each other, according to the prosecutor's filing.

¶8. (SBU) Two more criminal cases were sent to the courts based on alleged bribing of voters. One of these cases is in Armavir, and the second one is in the city of Hrazdan. The first instance court in Hrazdan will hold hearings on May 31, 2007, on that case.

CENTRAL ELECTION COMMISSION COMPLAINTS

¶9. (SBU) The Central Election Commission has also maintained a procedure for voters or parties to register formal

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complaints related to the conduct of elections, though of course this is a non-judicial procedure. The CEC has posted to its website (in Armenian language only) summations of each of the 76 complaints it has received, which span from the beginning of the official campaign period until just after Election Day, and supplies the CEC's action of resolution. Many of the complaints are summarized quite vaguely, such as "voter complained of problem with the conduct of polling in precinct XX/XX." In none of these cases does the CEC action seem to us definitive. Many complaints are answered by referring the complainant to prosecutors, while others simply find the complaint groundless.

¶10. (C) Artak Zeynalian, of the opposition Republic party, told us the CEC kept instructing party representatives to send applications/complaints to the PG's office for investigation, whereupon the PG's office frequently told applicants that their complaints lacked legal basis. Zeynalian claimed that this circular process denied any effective remedy. Zeynalian, not incidentally, was the single most frequent complainant listed on the CEC's website. Zeynalian also claimed that first instance courts likewise avoided accepting claims.

COMMENT

¶11. (C) It is too soon to judge whether authorities are doing a sufficiently thorough job of investigating and prosecuting election-related fraud. We predict only modest results, much less than a full and objective airing of the dirty linen, but perhaps just enough to deflect international criticism. The results will certainly not be enough to satisfy those opposition parties that still hope (however improbably) to whip up enough popular furor in the streets to throw the

government out.

¶12. (C) SO, WHAT DO WE DO NOW?: We have to decide how tough a line to take, especially given our perception that no other actor in the international community seems to have any appetite whatsoever to hold Armenia's feet to the fire.

While the government has, in our view, fallen well short of the full letter and spirit of free and fair elections, it is equally undeniable they've done much better than ever before.

Our recommendation is to keep on the nuanced tack we have taken so far, offering muted congratulations for the concrete steps forward, while continuing to offer tactful, constructive criticism. Presidential elections will be soon upon us in February 2008. If we hope to get any other electoral improvements made by that time, to say nothing of our other diplomatic priorities, we'll have to pick our battles.

GODFREY